

REMARKS

In the above-referenced Office Action, the Examiner has maintained the rejection of record and made it final. Applicant respectfully traverses.

Certain claims were amended to correct obvious typographical errors. These amendments do not narrow the scope of the claims and do not necessitate further search or consideration. As such, their entering after final is proper.

In responding to Applicant's arguments, the Office Action states that the "Examiner takes the position that the time frame of 'about to begin' is a future time." First, the reference does not state this; these words were taken from Applicant's remarks made in the previous response. While Applicant's word choice may not have been optimal, it is certainly clear that the distinction addressed between the presently claimed invention and the Haubrich reference is the timing and nature of the patient notification. In the Haubrich reference, telemetry is initiated and hence a session is already started before a patient is alerted and given a chance to make any response. Thus, the clarification is that the "about to begin" language used by Applicant refers to the reprogramming of the IMD during the session.

The Examiner further argues that the "predetermined time period" discussed in Haubrich relates to a further telemetry session. This is incorrect as the predetermined time period is started in response to a request by a programmer for telemetry. Thus, the session is effectively started. The predetermined time period would only be relevant when an error prevent subsequent communication and the session is terminated.

The presently claimed invention relates to notifying the patient of a future session; receiving a response to that notification; then initiating the session at that future time. In some embodiments, secondary actions are taken. That is, after receiving the response from the patient, the system provides a notice at the time of the session to which the patient may respond. For example, the patient

may receive an email indicating that a session should occur in two weeks. The patient may respond and accept. Then, at the appropriate time, a programming device initiates telemetry and notifies the patient. The patient may respond to this notification before telemetry continues and changes are made.

The Examiner has asserted that highlighting this distinction amounts to new matter. The Examiner is respectfully directed to page 14 of the present application, which provides one example of explicit support:

In some embodiments, patient 12 performs an action in response to receiving the notification to indicate receipt of the notification. In particular, the action performed by patient 12 causes a response to be sent to programmer 28 to indicate receipt of the notification. Additionally, patient 12 can be required to perform a series of actions to generate a response to the notification. The response to the notification assures a person operating programmer 28 that patient 12 is aware of and approves of the initiation of the telemetry session to update one or more operating parameters of IMD 14.

In addition, a wide variety of notification and response options are described and nothing is provided that would limit the invention to one and only one notification and response option.

Applicant respectfully asserts that the claims are allowable and that the subject matter in question is not new matter. As such, Applicant requests withdrawal of the rejection and a Notice of Allowance. Should any issues remain outstanding, the Examiner is urged to telephone the undersigned to expedite prosecution.

Respectfully submitted,

Date: April 3, 2006

/Daniel G. Chapik/
Daniel G. Chapik
Reg. 43,424
Telephone: (763) 514-3066
Customer No. 27581